

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MATTHEW GAMEWELL,

Plaintiff,

v.

LAFAYETTE WORK CENTER, INC,

Defendant.

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Cause No. 4:21-cv-00523-PLC

DEFENDANT’S MOTION FOR A RULE 35 MENTAL EXAMINATION

COMES NOW Defendant, Lafayette Work Center, Inc., by and through its undersigned attorneys, and pursuant to Rule 35 of the Federal Rules of Civil Procedure, hereby moves this Court for an Order requiring Plaintiff to submit to a mental examination. In support of its Motion, Defendant states as follows:

1. Plaintiff has placed his mental condition in controversy by seeking damages for “emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation and other non-pecuniary losses”, as alleged in Plaintiff’s Prayer for Relief in Plaintiff’s First Amended Complaint. (See First Amended Complaint, Doc. No. 14, at Prayer for Relief, E).

2. Plaintiff further made specific allegations of a specific mental or psychiatric injury or disorder which allegedly stem from the conduct of Defendant by stating that he had to go to the emergency room while he was employed with Defendant because he was suffering from “severe panic attacks” due to Defendant’s treatment toward Plaintiff. (See First Amended Complaint, Doc. No. 14, at ¶ 47).

3. Plaintiff further made specific allegations of a specific mental or psychiatric injury or disorder which allegedly stem from the conduct of Defendant by stating that he was

“diagnosed with anxiety” due to Defendant’s alleged misconduct. (Plaintiff’s Response to Defendant’s Interrogatories No. 9, attached as **Exhibit A**).

4. On October 20, 2021, Defendant, through counsel, gave proper Notice to Plaintiff specifying the date and time, place, manner, conditions, and scope of the examination, as well as the identity of the licensed examiner(s) by whom it is to be made. (E-mail dated October 20, 2021, attached as **Exhibit B** and Notice, attached as **Exhibit C**).

5. A mental examination is necessary inasmuch as Plaintiff has placed his mental condition in controversy in this case and there is no reliable alternative method of ascertaining the extent of Plaintiff’s mental condition and the causal root of Plaintiff’s alleged medical problems and damages.

6. Finally, given Defendant’s position that Plaintiff’s claims are patently false as demonstrated by an independent investigation and that Plaintiff made similar claims to Manchester Police Department which were determined by them to be false, there is good cause to conduct a mental examination pursuant to Rule 35 as such examination may help explain Plaintiff’s perceptions and reaction to events that may have occurred at the workspace.

WHEREFORE, for the reasons contained herein and in Defendant’s Memorandum in Support of its Motion for a Rule 35 Mental Examination, Defendant respectfully requests this Court to enter an Order requiring Plaintiff to submit to a mental examination on November 3rd and 10th, 2021 pursuant to Defendant’s Notice of Rule 35 Mental Examination and for such other and further relief as this Court deems proper.

Respectfully submitted,

McMAHON BERGER, P.C.

/s/ Robert D. Younger

Robert D. Younger, #42909MO
Christine S. Coleman #58828MO
2730 North Ballas Road, Suite 200
St. Louis, Missouri 63131
(314) 567-7350
(314) 567-5968 (facsimile)
younger@mcmahonberger.com
coleman@mcmahonberger.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that on October 20, 2021 I electronically filed the foregoing with the Clerk of the United States District Court for the Eastern District of Missouri by using the CM/ECF system and that a copy of the foregoing was served via email, upon the following:

Matthew J. Ghio, MO #44799
Ghio Law Firm, LLC
3115 S. Grand Blvd, Suite 100
St. Louis, MO 63118
Tel: (314) 707-5853
Fax: (314) 732-1404
matt@ghioemploymentlaw.com

Attorney for Plaintiff

/s/ Robert D. Younger